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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

THE PEOPLE,

Plaintiff and Respondent,

v.

RAMON GUERRERO,

Defendant and Appellant.

2d Crim. No. B209909  
(Super. Ct. No. 1005618)  
(Santa Barbara County)

Guerrero appeals from an order denying his motion to set aside his plea.

In 1999, the prosecution charged Guerrero with one count of possession for sale of a controlled substance and one count of sale of a controlled substance. (Health & Saf. Code, §§ 11378 & 11369.) Pursuant to a plea agreement, Guerrero pled no contest to one count of possession of a controlled substance for sale. The remaining count would be dismissed, and he would serve one year in the county jail.

Guerrero signed and initialed a plea form advising him of his constitutional rights and the consequences of his plea. Among other matters, the form advised him that if he is not a citizen his plea could result in deportation, exclusion from admission to the United States or denial of naturalization and citizenship. He also understood that the maximum term he could serve would be three years in prison.

Defense counsel also signed the form indicating Guerrero was advised of and understood his constitutional rights and the consequences of his plea. The court accepted his plea and sentenced him to five years probation and 300 days in jail.

After Guerrero served his jail term, he was deported. When he returned to the United States, he was taken into custody by immigration officials.

In May 2008, Guerrero moved to withdraw his plea. The motion was based on his claim that his attorney advised him that his plea would not result in his removal from the United States. Guerrero also claimed his attorney advised him he was pleading no contest to simple possession. He said he was not aware he was pleading to possession for sale.

The prosecution's opposition to the motion pointed out that the complaint, the presentence probation report and the plea form all confirmed that the no contest plea was to the possession for sale count (Health & Saf. Code, § 11378), and that it contained also an express advisement of adverse immigration consequences. The prosecution further argued Guerrero failed to show prejudice. He did not present any evidence to show the prosecution was willing to agree to a plea that would not have adverse immigration consequences. Nor did he present evidence to show that a trial would have had a result that would have avoided adverse immigration consequences.

We appointed counsel to represent Guerrero on this appeal. After examination of the record, counsel filed an opening brief in which no issues were raised.

On January 12, 2009, we advised Guerrero that he had 30 days within which to personally submit any contentions or issues which he wished us to consider. No response has been received to date.

We have examined the entire record and are satisfied that Guerrero's attorney has fully complied with his responsibilities and that no arguable issues exist. (*People v. Wende* (1979) 25 Cal.3d 436, 441.)

The judgment is affirmed.  
NOT TO BE PUBLISHED.

GILBERT, P.J.

We concur:

YEGAN, J.

COFFEE, J.

Edward H. Bullard, Judge  
Superior Court County of Santa Barbara

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Melanie K. Dorian, under appointment by the Court of Appeal, for  
Defendant and Appellant.

No appearance for Plaintiff and Respondent.